

CONDITIONAL USES

Purpose.

The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional," such that proposed new land uses meet County ordinances, Federal and State Law, and are properly integrated into the community through the imposition of conditions, based on standards, intended to mitigate the reasonably anticipated detrimental effects of a particular conditional use. Conditional uses shall be approved on a case-by-case basis provided the applicant adequately demonstrates that the reasonably anticipated detrimental effects of the proposed use can be mitigated through the imposition of reasonable conditions, based on standards in the County ordinances.

Conditional use permit required

A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations where the use is located or elsewhere in this title.

Application requirements—Fee.

Only when the following elements are satisfied is a conditional use application deemed complete:

- A. An application for a conditional use permit shall be made by the property owner or certified agent thereof in writing upon the form(s) designated by the Zoning Administrator or designee.
- B. Accompanying Documents. Each application shall include: to-scale site plans, architectural elevations, landscape plans, sign plans, and engineering specifications, unless waived by the Zoning Administrator or designee. Such plans may be conceptual but shall provide reasonable accuracy and specifications to allow for full understanding, pending finalization after Planning Commission approval.
- C. Fee. The initial application fee for any conditional use permit, as provided for in this code, shall be paid. The payment of a partial application fee, or the submittal of plans for a pre-submittal review, does not constitute a complete application.
- D. Complete Applications. Only applications deemed complete by the County staff will be processed. Complete applications include appropriate application forms and signatures as required in A above, the required associated drawings, as required in B above, and such drawings shall meet County standards unless a waiver is being sought as part of the application.

Application review.

- A. The Zoning Administrator or designee shall administer an application review procedure in which the proposed use and the proposed site development plan are evaluated for compliance with all applicable ordinances and codes and for reasonably anticipated detrimental effects.
- B. The application review procedure shall contain the following components:
 - 1. Referral of the application to all affected entities;

2. A review of the proposed site plan, and associated documents for compliance with applicable sections of the zoning ordinance;
3. A review of the proposed use and site plan to ascertain potential reasonably anticipated detrimental effects and whether conditions based on standards can be imposed to mitigate those effects.

C. The application review procedure may include the following:

1. Referral of the application to governmental or regulating entities for recommendations;
2. A pre-application meeting, in which preliminary site plans are reviewed and discussed prior to finished plans being submitted for review;
3. An on-site review of the proposal by the Zoning Administrator, or designee;
4. A requirement that the applicant submit impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, noise, sensitive lands, and environmental contamination.

D. The Zoning Administrator, or designee shall present a review, summary, and recommendation to the Planning Commission after having provided the applicant with a copy as required by State law. The recommendation shall remain part of the public record.

Approval/denial authority.

The Planning Commission has the authority to approve or approve with conditions, based on objective standards, all conditional use applications. Denial of an application shall only be considered if there are no conditions that can be imposed to mitigate the reasonably anticipated detrimental effects of the use. All conditional uses are presumed to be compatible in the zone and compatible with the intent of the General Plan.

A. Planning Commission Approval.

1. The Planning Commission shall review and approve with conditions, continue, or deny, if no reasonable mitigation can be determined, each application during a public meeting.
2. The Planning Commission's decision shall be based on information presented through the public meeting process, including: the materials submitted by the applicant, information provided by reviewing agencies, the recommendation of the Zoning Administrator or designee, and interested parties/affected entities.
3. The Zoning Administrator or designee shall issue a final approval letter, subsequent to Planning Commission approval, detailing the conditions imposed and standards of the ordinances as applied to the conditional use.
4. If the applicant fails to meet all conditions of approval within twelve months of the Planning Commission's decision, the application is deemed denied. A twelve-month extension may be granted upon the payment of an additional filing fee equal to the original filing fee.
5. A Planning Commission decision shall be made on a complete conditional use application within a reasonable time frame, not to exceed ninety days, from the date

the complete conditional use application is first reviewed by the Planning Commission. The Planning Commission is authorized to review and take action on an application as outlined in this chapter after having notified the applicant of the meeting date.

6. Failure by the applicant to provide information that has been requested by the Planning Commission, or the Zoning Administrator or designee to resolve conflicts with the standards of this chapter and the relevant chapters of the Zoning Ordinance may result in an application being considered incomplete or denied.

B. Decision. Each conditional use application shall be:

1. Approved if the proposed use, including the manner and design in which a property is proposed for development, complies with the standards for approval as outlined herein; or
2. Approved with conditions if the anticipated detrimental effects of the use, including the manner and design in which the property is proposed for development, can be mitigated with the imposition of reasonable conditions to bring about compliance with the standards outlined herein; or
3. Denied if the anticipated detrimental effects of the proposed use cannot be mitigated with the imposition of reasonable conditions of approval to bring about compliance with the standards outlined herein.

Standards for approval.

All Conditional Use Permits run with the land and may require the applicant to record documents to that effect. The Planning Commission and planning staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. All conditional uses shall meet the following standards:

- a. The proposed conditional use shall comply with County ordinances, Federal, State Law, as applicable to the site where the conditional use will be located.
- b. Substantial mitigation of reasonably anticipated detrimental effects arising from the conditional use, including, but not limited to:
 1. Detrimental effects of decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards, including other reasonable mitigation as determined by a qualified traffic engineer.
 2. Detrimental effects on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems, including other reasonable mitigation as determined by the County's engineering staff, contracted engineers, and utility service providers.
 3. Detrimental effects on connectivity and safety for pedestrians and bicyclists.

4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable, within a neighborhood including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
5. Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, sensitive lands, environmental health hazards, or wetlands, as determined by County Engineer, County geologist and other qualified specialists.
6. Detrimental effects of modifications to or installation of signs and exterior lighting that conflict with neighborhood compatibility.
7. Detrimental effects arising from incompatible designs in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
8. Detrimental effects on the tax base and property values.
9. Detrimental effects on the current level of economy in governmental expenditures.
10. Detrimental effects on emergency fire service and emergency vehicle access.
11. Detrimental effects on usable open space.
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

Application Types

Most conditional uses will be reviewed by the Planning Commission, however some conditional uses will be labeled “administrative conditional uses” and be processed by the Zoning Administrator or designee.

For Administrative Conditional Uses, the Zoning Administrator or designee shall administer an application review procedure in which the administrative conditional use application is evaluated for compliance with all applicable ordinances and codes and for reasonably anticipated detrimental effects.

The application review procedure may contain the following components:

1. A pre-application meeting, in which preliminary applications (use and site plan) are reviewed and discussed prior to a formal application being submitted for review.
2. A review of the application, and associated documents for compliance with applicable sections/standards of the zoning ordinance.
3. A review of the application to ascertain potential reasonably anticipated detrimental effects

4. If applicable, referral of the application to governmental or regulating entities having actual jurisdiction over the site in question, for recommendations. Such entities and departments may be convened for an input and discussion meeting.
5. An on-site review of the proposal by the Zoning Administrator or designee.
6. A requirement that the applicant submit impact studies or other technical studies regarding grading, drainage, traffic, parking, geologic hazards, noise, and environmental contamination.
7. If in the review of an Administrative Conditional use, planning staff finds site plan and/or use issues where the County Standards conflict, the developer disagrees with a particular condition, or the impacts of a use are significantly more than anticipated by the basic ordinance standards, staff may raise the application to the level of a Planning Commission conditional use and process it accordingly.

18.108.080 - Appeals.

Any adversely affected person shall have the right to appeal to the Appeal Authority any decision rendered by the Planning Commission, the Zoning Administrator or designee, by filing in writing, stating the reasons for the appeal with the Appeal Authority within ten days following the date upon which the decision is made, pursuant to Chapter XXX. Appeals shall be made on a form available through the Planning Department and shall comply with the following procedures:

- A. Upon scheduling a hearing date, the land use hearing officer shall notify the Zoning Administrator at least two weeks prior to the meeting to allow preparation of the record.
- B. The Zoning Administrator shall prepare a copy of the record of the proceedings and decision being appealed for presentation to the Appeal Authority.
- C. The Appeal Authority shall review the record, and may not accept or consider any evidence outside the record unless the evidence was offered to and was excluded by the Planning Commission, the Zoning Administrator or designee and the Appeal Authority determines that it was improperly excluded.
- D. The Appeal Authority shall review the Planning Commission's or the Planning Department's actions to determine whether the decision was arbitrary, capricious, or illegal.
- E. The filing of an appeal does not automatically stay the decision; however, the Appeal Authority has the authority to stay the decision while the appeal is pending.
- F. After review of the record and written and oral argument on both sides, the Appeal Authority may affirm, reverse, alter, or remand to the Planning Commission, the Zoning Administrator or designee for further review and consideration the action taken by the Planning Commission, the Zoning Administrator or designee.

18.108.90 - Preliminary and final approval of conditional use applications.

- A. Unless otherwise designated, a Planning Commission decision approving a conditional use application shall be a preliminary approval of the application.

- B. Except as specified in subsection C of this section, the Zoning Administrator is authorized to grant final approval of conditional use applications after all of the conditions and requirements of the preliminary approval which are necessary for the final approval have been identified. Final approval of a conditional use application shall be in the form of an agreement letter to the applicant which, together with the approved site plan if required, shall constitute the conditional use permit.
- C. The Planning Commission may require as a condition of preliminary approval that a conditional use application be brought before the Planning Commission for consideration of final approval.

Revocation of conditional use permits.

A conditional use permit may be revoked by the Planning Commission upon a finding of failure to comply with the terms and conditions of the original permit or for any violation of this title occurring on the site for which the permit was approved. Prior to taking action concerning revocation of a conditional use permit, a hearing shall be held by the Planning Commission. Notice of the hearing and the grounds for consideration of revocation shall be mailed to the permittee at least ten days prior to the hearing.